

§ 457.622 Rate of FFP for State expenditures.

(a) *Basis.* Sections 1905(b), 2105(a) and 2105(b) of the Act provides for payments to States from the States' allotments for a fiscal year, as determined under § 457.608, for part of the cost of expenditures for services and administration made under an approved State child health assistance plan. The rate of payment is generally the enhanced Federal medical assistance percentage described below.

(b) *Enhanced Federal medical assistance percentage (Enhanced FMAP)—Computations.* The enhanced FMAP is the lower of the following:

(1) 70 percent of the regular FMAP determined under section 1905(b) of the Act, plus 30 percentage points; or

(2) 85 percent.

(c) *Conditions for availability of enhanced FMAP based on a State's expenditures—*The enhanced FMAP is available for payments based on a State's expenditures claimed under the State's title XXI program from the State's fiscal year allotment only under the following conditions:

(1) The State has an approved title XXI State child health plan;

(2) The expenditures are allowable under the State's approved title XXI State child health plan;

(3) State allotment amounts are available in the fiscal year, that is, the State's allotment or allotments (as reduced in accordance with § 457.616) remain available for a fiscal year and have not been fully expended.

(4) Expenditures claimed against the 10 percent limit are within the State's 10 percent limit for the fiscal year.

(5) For States that elect to extend eligibility to unborn children under the approved Child Health Plan, the State does not adopt eligibility standards and methodologies for purposes of determining a child's eligibility under the Medicaid State plan that were more restrictive than those applied under policies of the State plan in effect on June 1, 1997. This limitation applies also to more restrictive standards and methodologies for determining eligibility for services for a child based on the eligibility of a pregnant woman.

(d) *Categories of expenditures for which enhanced FMAP are available.* Except as

otherwise provided below, the enhanced FMAP is available with respect to the following States' expenditures:

(1) Child health assistance under the plan for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103 of the Act; and

(2) Subject to the 10 percent limit provisions under § 457.618(a)(2), the following expenditures:

(i) Payment for other child health assistance for targeted low-income children;

(ii) Expenditures for health services initiatives under the State child health assistance plan for improving the health of children (including targeted low-income children);

(iii) Expenditures for outreach activities; and

(iv) Other reasonable costs incurred by the State to administer the State child health assistance plan.

(e) *CHIP administrative expenditures and CHIP related title XIX administrative expenditures—*(1) *General rule.* Allowable title XXI administrative expenditures should support the operation of the State child health assistance plan. In general, FFP for administration under title XXI is not available for costs of activities related to the operation of other programs.

(2) *Exception.* FFP is available under title XXI, at the enhanced FFP rate, for Medicaid administrative expenditures attributable to the provision of medical assistance to children described in sections 1905(u)(2) and 1905(u)(3), and during the presumptive eligibility period described in section 1920A of the Act, to the extent that the State does not claim those costs under the Medicaid program.

(3) FFP is not available in expenditures for administrative activities for items or services included within the scope of another claimed expenditure.

(4) FFP is available in expenditures for activities defined in sections 2102(c)(1) and 2105(a)(2)(C) of the Act as outreach to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the availability of, and to assist them in

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enrolling their children in such a program.

(5) FFP is available in administrative expenditures for activities specified in sections 2102(c)(2) of the Act as coordination of the administration of the Children's Health Insurance Program with other public and private health insurance programs. FFP would not be available for the costs of administering the other public and private health insurance programs. Coordination activities must be distinguished from other administrative activities common among different programs.

[65 FR 33622, May 24, 2000, as amended at 67 FR 61974, Oct. 2, 2002; 75 FR 48852, Aug. 11, 2010]

§ 457.626 Prevention of duplicate payments.

(a) *General rule.* No payment shall be made to a State for expenditures for child health assistance under its State child health plan to the extent that:

(1) A non-governmental health insurer would have been obligated to pay for those services but for a provision of its insurance contract that has the effect of limiting or excluding those obligations based on the actual or potential eligibility of the individual for child health assistance under the State child health insurance plan.

(2) Payment has been made or can reasonably be expected to be made promptly under any other Federally operated or financed health insurance or benefits program, other than a program operated or financed by the Indian Health Service.

(3) Services are for an unborn child and are payable under Medicaid as a service to an eligible pregnant woman under that program.

(b) *Definitions.* As used in paragraph (a) of this section—

Non-governmental health insurer includes any health insurance issuer, group health plan, or health maintenance organization, as those terms are defined in 45 CFR 144.103, which is not part of, or wholly owned by, a governmental entity.

Prompt payment can reasonably be expected when payment is required by applicable statute, or under an approved State plan.

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Programs operated or financed by the Indian Health Service means health programs operated by the Indian Health Service, or Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement or compact with the Indian Health Service under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, *et seq.*), or by an urban Indian organization in accordance with a grant or contract with the Indian Health Service under the authority of title V of the Indian Health Care Improvement Act (25 U.S.C. 1601, *et seq.*).

[65 FR 33622, May 24, 2000, as amended at 67 FR 61974, Oct. 2, 2002]

§ 457.628 Other applicable Federal regulations.

Other regulations applicable to CHIP programs include the following:

(a) HHS regulations in § 433.312 through § 433.322 of this chapter (related to Overpayments); § 433.38 of this chapter (Interest charge on disallowed claims of FFP); § 430.40 through § 430.42 of this chapter (Deferral of claims for FFP and Disallowance of claims for FFP); § 430.48 of this chapter (Repayment of Federal funds by installments); § 433.50 through § 433.74 of this chapter (sources of non-Federal share and Health Care-Related Taxes and Provider Related Donations); and § 447.207 of this chapter (Retention of Payments) apply to State's CHIP programs in the same manner as they apply to State's Medicaid programs.

(b) HHS Regulations in 45 CFR subtitle A:

Part 16—Procedures of the Departmental Appeals Board.

Part 74—Administration of Grants (except as specifically excepted).

Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services: Effectuation of title VI of the Civil Rights Act of 1964.

Part 81—Practice and Procedure for Hearings Under 45 CFR part 80.

Part 84—Nondiscrimination on the Basis of Handicap in Programs and activities Receiving or Benefiting From Federal Financial Assistance.